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SUBJECT: JORDANIAN TRIBAL GOVERNANCE 101, PART 3: TRIBAL
LAW VS. THE FORMAL LEGAL SYSTEM

REF: A. AMMAN 1203

[B](#). AMMAN 1202

[C](#). 06 AMMAN 4030

Classified By: Ambassador R. Stephen Beecroft
for reasons 1.4 (b) and (d).

[1](#). (C) Summary: This cable is the third of a three part series on internal governance structures in Jordan's tribal system. Tribal law acts as an alternative to Jordan's formal legal system. It deals with cases that range from social mediation to first-degree murder. Sheikhs work closely with local law enforcement and are quick to involve the authorities when cases become complicated or difficult to contain. Enforcement of judgments in the tribal legal system often involve lighter sentences that are less reliant on precedent. Use of tribal law is declining gradually as the formal legal system improves its ability to adequately and reliably respond to Jordan's legal needs. End Summary.

A Parallel Legal System

[2](#). (C) In Jordan, tribal law often acts as an alternative dispute resolution mechanism or a small claims court, resolving cases before they enter into the formal legal system. The informal system of tribal law appeals to honor and shame as a means of keeping people in line and sidesteps the expense and delays of a court case.

[3](#). (C) The system of tribal law covers a wide range of crimes, from cases of bruised honor to first-degree murder. Tribal leaders we talked to dealt with a wide variety of crimes and punishments and were well-versed in the proper treatment of all kinds of infractions. Mohammed Momani, a sheikh from Zarqa, told us that most of the crimes he deals with involve cars in some way or another. From minor accidents to vehicular manslaughter, tribal law is seen as a preferable alternative to dealing with the official courts, whose rulings may up the cost of insurance and result in a suspended driver's license. (Note: Tribal law is also central to the issue of so-called "honor crimes" in Jordan, a topic that will be covered septel. End Note.)

The Choice: Formal or Tribal Law?

[4](#). (C) Cases enter the system of tribal law in many ways. Disputants will often seek out a sheikh based on his reputation. Other cases may be referred to a neutral sheikh when a case involves close relations of a tribal leader. When a major crime is committed, members of the community will often seek refuge with a sheikh rather than submitting to strangers at a police station. Sheikhs also told us that they are frequently used by the formal court system to settle complicated or drawn out disputes. Momani talked about one case that languished in the formal legal system for five years before the presiding judge pressed the disputants to agree to submit the dispute to a panel of local tribal leaders. The sheikhs argued the case for half an hour and

then returned a verdict which was accepted instantly by both sides.

15. (C) Several sheikhs told us that they work hand in hand with local law enforcement, which engages tribal leaders in mediation efforts before minor security flareups spin out of control. "If there are troubles between the tribes, the governor will call me first," says 'Utaiwi Al-Majali, a prominent sheikh in Karak. "We coordinate on a daily basis." Information on security matters flows the opposite direction as well: if the informal dispute resolution of local tribal leaders proves unable to mediate a solution to a complicated or controversial case, sheikhs are quick to involve the authorities before events descend into violence. There is broad recognition among tribal leaders and government officials that the tribes have a key role to play in maintaining public order through resolution of societal disputes. Salt Governor Sameh Majali told poloff that "the security of the tribe and the security of the state are the same thing."

Enforcement of Decisions

16. (C) Intervention in matters of law by tribal leaders often starts with an 'adwa,' or temporary truce. By agreeing to a truce, the parties confirm that they will not harm the other party during the mediation process. Sheikhs will then find two guarantors of the truce -- one for security matters and one for financial matters. The guarantors, usually neutral parties not connected to the case, are responsible for ensuring the status quo until the conflict is resolved.

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17. (C) Sheikhs we spoke with favorably compared the punishments meted out by tribal law with the harsher sentences handed down by Jordan's court system. For example, murder is punishable by a long prison term in the formal courts, but the tribal punishment for murder is generally internal exile to another Jordanian city for seven years, accompanied by a guarantee from the victim's family that they will not seek revenge. Unlike the fines issued by Jordan's formal courts, monetary punishments meted out by tribal law tend to be negotiated sums which are based on the ability of a perpetrator to pay.

18. (C) Since tribal law draws upon changing moral codes and contradictory precedents, cases of tribal law are rarely cut and dry. When a sheikh needs a second opinion, or when members of his tribe challenge a judgment, there is an informal council of tribal elders that serves as a type of tribal court of appeals. Difficult cases of tribal law are also brought to this body so that local sheikhs can recuse themselves from the consequences of a divisive judgment. (Note: There is also a formalized, largely ceremonial "council of sheikhs," which serves as an advisory body to the King on tribal matters. The council of sheikhs is currently headed by Prince Ghazi, the King's cousin. End Note.)

Use of Tribal Law

19. (C) Looking back over the last few years, sheikhs we talked to saw a slight decline in the use of tribal law. There is an increasing recognition that Jordanian courts have the power to hand down lasting, impartial judgments. Tribal law is not equipped to deal with every type of case, and sheikhs are increasingly leaning on the formal legal system to deal with complicated or controversial cases (such as those involving business transactions) where their ability to render judgment is limited. This trend comes as the ability of Jordan's legal system to adequately attend to the needs of society is greatly expanding. With USAID assistance, Jordan's civil and criminal court systems are now fully automated, qualified judges are replacing political

appointees, and alternative dispute resolution mechanisms are growing in importance. While the tribal legal system remains the first stop for many Jordanians, its importance in obtaining final legal satisfaction is declining.

Beecroft